



Health Services
LOS ANGELES COUNTY

Los Angeles County
Board of Supervisors

Gloria Molina
First District

Yvonne B. Burke
Second District

Zev Yaroslavsky
Third District

Don Knabe
Fourth District

Michael D. Antonovich
Fifth District

Bruce A. Chernof, MD
Director and Chief Medical Officer

John R. Cochran III
Chief Deputy Director

William Loos, MD
Acting Senior Medical Officer

313 N. Figueroa Street, Suite 912
Los Angeles, CA 90012

Tel: (213) 240-8101
Fax: (213) 481-0503

*To improve health
through leadership,
service and education*



www.ladhs.org

October 26, 2006

REVISED

Mr. Dennis Smith, Director
Center for Medicaid and State Operations
Centers for Medicare and Medicaid Services
Department of Health and Human Services
750 Security Boulevard, Mail Stop S2-26-12
Baltimore, Maryland 21244-1850

Dear Mr. Smith:

Thank you for your October 25, 2006, response to the County of Los Angeles' request for an extension of the Centers for Medicare and Medicaid Services' (CMS) termination of Martin Luther King, Jr./Charles R. Drew Medical Center (King/Drew) to allow adequate time to implement the sweeping restructuring described in the MetroCare Plan. The MetroCare Plan that CMS received on October 19, 2006 is final and has been endorsed by the Board of Supervisors pending an acceptance of the plan by CMS. Timely resolution of this issue is critical, since the CMS' termination is effective November 30, 2006.

The County is committed to operating a hospital in South Los Angeles that meets the health needs of the community and also meets national standards of care. In the conference held by CMS on September 22, 2006 to present the findings of CMS' most recent audit of King/Drew, CMS leadership provided a letter and guidance stating that an alternative plan that would have the hospital operated by a new entity, and that would assure the hospital would meet CMS and State requirements, would be acceptable.

In the one-month period since that meeting, the County has developed a dramatic restructuring plan for this hospital. It will be a simpler, less complex institution, and all graduate medical education will be eliminated. Every employee and every physician working at King/Drew, more than 2000 individuals, will be reassigned. The leadership for operations and medical care will be under the direction of the senior management of Harbor-UCLA Medical Center, a nationally recognized and fully JCAHO accredited hospital. These sweeping changes, described in detail, provide the specific evidence that the safety and quality of care required by statute and regulations will assuredly be met. The MetroCare Plan includes a specific timeline which includes dates for both the first and second CMS Conditions of Participation surveys. The answers to the specific questions raised in the attachment to your letter are enclosed.

Your agency's action has precipitated the need for the County to move quickly and resolutely to implement dramatic change within its health care system. To that end, under California law, any reduction or elimination of a county medical service requires a public hearing (known as a Beilenson hearing) prior to implementing the service change. The purpose of the hearing is to permit the

Dennis Smith
October 26, 2006
Page 2

public to comment on the proposed service change prior to the Board of Supervisors taking any formal action to approve those changes.

Because your agency's action effectively requires any proposed service changes to be implemented no later than November 30, 2006, the Board of Supervisors has scheduled a Beilenson hearing on November 6, 2006, which is the earliest date feasible given legally mandated notice requirements under the law concerning Beilenson hearings. If the Board of Supervisors formally approves implementation of the MetroCare Plan, we will immediately begin the implementation of the clinical changes set forth in it.

Finally, we would note that, while public comment at the Beilenson hearing could lead to modifications of the service changes detailed in the MetroCare Plan, the Board of Supervisors has been fully committed to the general restructuring strategy outlined in the MetroCare Plan, as has Governor Schwarzenegger, who has endorsed the MetroCare Plan and has sent Secretary Leavitt a letter stating that "it is imperative that the county be informed of the federal government's response...prior to these hearings."

The fundamental questions raised in the body of your letter are directly answered in the MetroCare Plan, and I believe they point to the need for a face-to-face meeting. Your letter states: "Similarly and not mentioned in your (L.A. County) letter, on what date is King Drew expected to meet Medicare conditions of participation?" The MetroCare Plan that you received clearly documents on page 3 of the timeline that the new Harbor-MLK (old KDMC) hospital will request a CMS survey on July 1, 2007, and we expect to be notified by CMS that the new hospital met all conditions with no major deficiencies by July 15, 2007. I am dismayed that CMS has not accepted my request for a meeting, which was contained in the Department's October 19, 2006 letter, and I am requesting that you provide dates and times next week so that I may come to Washington to review the plan with you in detail. We look forward to the opportunity for a constructive dialogue that will lead to the preservation of vital healthcare services in this very underserved area of Southern California. Time is of the essence here given CMS' termination date of November 30, 2006.

Sincerely,



Bruce A. Chernof, MD
Director and Chief Medical Officer

BAC:jc

Enclosure

c: Kim Belshe, Secretary, California Health & Human Services Agency
Sandra Shewry, Director, California Department of Health Services
Board of Supervisors, Los Angeles County
David E. Janssen, Chief Administrative Officer, Los Angeles County

QUESTIONS AND ANSWERS

Question

Is the plan contained in your letter the final plan, or could it change based on public input obtained at the November 6 hearing? How likely do you think it is that the plan would be modified following the hearing and how soon is the Board expected to give final approval to the plan?

Answer

The plan contained in our letter of October 13, 2006 is our final plan, approved principle by the Board of Supervisors at their meeting of October 17, 2006. That plan requires specific reductions in service at King-Drew Medical Center. Under California law, any reduction or elimination of service at a county-operated health facility are subject to public hearings (Beilenson hearings) to receive public input on the proposed changes. As soon as the Board endorsed the plan, the required 14 day notices were posted and the earliest possible hearing date scheduled, November 6, 2006. At the completion of these hearings, the Board may decide to make revisions to the plan, based on the input received, or may direct this Department to implement the plan as originally submitted.

The plan was discussed in some detail with senior management of the State Department of Health Services since the plan contemplates several major service changes at King/Drew that will require their cooperation. They have indicated a strong desire to work with us in preserving the hospital in its new reconfigured status. These discussions led to the letter Governor Schwarzenegger sent to Secretary Leavitt supporting the plan.

Question

On what date is King Drew expected to meet the Medicare conditions of participation?

Answer

Corrective actions have been taken since the date of the survey to address the deficiencies found in that document, as were briefly mentioned in the response we provided to the CMS 2567 form. Particular attention has been paid to the clinical areas which might present a danger to patients, such as nursing infection control and pharmacy. Based on those actions, we believe that the hospital is safe.

Question

When will it request its first and second surveys that would, if successfully passed, restore full Medicare funding?

Answer

See answer to prior question.

Question

Has the state committed to resume Medi-Cal reimbursement prior to the hospital meeting Medicare's conditions of participation and passing a survey to verify that those conditions are being met?

Answer

In Governor Schwarzenegger's October 23, 2006 letter to Secretary Leavitt, the State seeks an extension of the November 30, 2006 effective date of Medicare termination "in a manner that provides for no break in federal funding for the hospital." Because Medicare certification would be continuing, King Drew would meet Medi-Cal's program requirements and be continuously eligible for Medi-Cal funding.

Question

Has the State of California indicated that it would restore Medicaid funding after the first survey without requiring the hospital to pass the second survey necessary to restore Medicare funding?

Answer

No. As indicated in the response to the prior question, the State seeks "no break in federal funding for the hospital" presumably with the continuance of matching funds to continue to draw down this federal funding as necessary.

Question

Will revenue and cost estimates for each month of the County's proposed reduction in inpatient and outpatient services at King Drew be available prior to the November 6 hearing on those reductions?

Answer

These estimates are under development and, per the Los Angeles County Board of Supervisors' action of October 17, 2006, are due 30 days following that action. As you are aware, the plan involves shifting services to other County facilities, or, if necessary, to private hospitals. Accordingly, to understand the financial consequences of the plan, it is necessary to look beyond the reductions at King/Drew and to review the issue on a County-wide basis.

Question

If the number of inpatient and outpatient services at King Drew are reduced, is it to be expected that there would be a proportionate reduction in revenue from federal payments compared with the current amount of funding for inpatient and outpatient services? How does the plan take into account this expected reduction in federal funding?

Answer

Under the State's federally-approved 1115 waiver, and its implementing state plans, the amount of federal funding claimed for a public hospital would go down based upon any reduction in cost at the hospital. Per the waiver the federal government will only reimburse for costs incurred based on the methodologies provided in federal law, the waiver, and California's State Plan.

CMS provides the state the authority to direct federal funds received from claims through a certified public expense to any designated public hospital. One of the key principles of the State's waiver was to hold hospitals harmless at a State level from the impact of the change in payment methodology. Under State legislation, a designated public safety net disproportionate share hospital's (DSH) hospital's Medicaid-related Medi-Cal revenues (in aggregate from Medi-Cal fee-for-service, DSH and the Safety Net Care Pool) do not change in response to workload or cost changes during a particular fiscal year. Increases and decreases in costs are taken into account in the subsequent year. The one exception to this, specified in the implementing State legislation, provides that, if a hospital's costs under the waiver fall by more than 20% from the prior fiscal year's level, the State may adjust the hospital's waiver-related Medi-Cal revenues. Because the State has discretion as to whether and how to make such an adjustment, it is unclear what impact the proposed reduction in inpatient days will have on Medi-Cal revenues. In particular, this is the case because other Los Angeles County operated hospitals, to which some of the hospital's patients and corresponding services are to be transferred, permanently and temporarily, will receive no additional funding for these patients and services until the subsequent year. The plan seeks to preserve the existing level of inpatient services overall to be provided at the hospital and other Los Angeles County operated hospitals and plans to increase the number of outpatient services provided. Due to this lack of clarity, the State is seeking extension of the effective date of Medicare termination "in a manner that provides for no break in federal funding for the hospital."

It should also be noted that the amount of federal funds that can be claimed by the State under DSH and the safety net care pool are fixed by either federal law or the waiver. Based on information from the State, there is currently more costs available statewide to claim more than the amount of funds available in these allotments. Thus, in all cases the State will claim these full allotments. Further, as costs shift to other hospitals, these costs will also be claimed pursuant to federal rules.

Question

If patients who would otherwise receive services from King Drew seek care at another County owned hospital that is eligible to receive Medicaid and Medicare funding, has the County's plan taken into account the effects of this source of federal funding?

Answer

As noted above, the hospitals receiving King/Drew patients do not expressly receive supplemental reimbursement for those additional days. Accordingly, as noted in the response to the prior question which describes how federal claiming works and how State law works, we seek to have King/Drew's waiver-eligible reimbursement, and other federal revenues which would be lost due to decertification, preserved at the current level to cover the current level of services provided, either at the hospital or other Los Angeles County operated hospitals.

Question

How much additional funding has the Los Angeles County Board of Supervisors, the State of California or any other non-federal source provided to the Department or to the hospital for the post-November transition period?

Answer

Provided that the federal government agrees to extend the termination of Medicare certification for twelve months, the County is committed to fund the new Harbor-King Community Hospital and services transferred to other Los Angeles County hospitals to the extent necessary to provide for the service levels proposed in the MetroCare plan forwarded to the CMS Administrator.

Question

Are there any expected financial shortfalls in subsequent years that may affect this plan in both the short-term and long-term?

Answer

Potentially. Please see the attached September 20, 2006 update to the Los Angeles County Board of Supervisors for a discussion of the Department's fiscal outlook.

Question

As you know, Medicaid is a joint federal and state program and federal funding is contingent on the state funding its share. Has the state committed to maintaining its share of Medicaid funding after November 30?

Answer

Yes. Implicit in the Governor's request that the federal government provide matching funds is a commitment to assure that there are sufficient federally matchable expenditures within the state.

Question

In addition to maintaining Medicare and Medicaid payments for care provided by the hospital after November 30, your letter requests \$50 million in "one-time transition costs." Is this request for \$50 million intended to be a loan or a grant? If it is a loan, when would the \$50 million be repaid?

Answer

A Grant.

Question

Has the county requested the \$50 million in transition costs from the State of California or any other non-federal source?

Answer

No.

Question

Can you please provide an explanation detailing the specific uses of the additional \$50 million?

Answer

We have already identified as potentially includable costs information technology and the continuing education for Drew Medical School residents that could total \$40 million. Substantial transition costs will also be incurred in transferring patients and services to other Los Angeles County Hospitals, both temporarily and permanently.

Question

As you know, section 1115 waivers must be budget neutral to the federal government and designed to demonstrate innovations of value to the Medicaid program. If the county intends to obtain the additional \$50 million through a section 1115 waiver, what would innovation of value would the waiver demonstrate and how would it be budget neutral to the federal government?

Answer

The innovative value added by the \$50 million is to facilitate a dramatic restructuring plan to establish a new Harbor-King Community Hospital as suggested by CMS leadership in sharing the findings of their latest audit of King/Drew and articulated in the MetroCare plan endorsed by the Los Angeles County Board of Supervisors and forwarded to the CMS Administrator on October 19, 2006. Moreover, the restructured entity would provide an empirical basis for examining the effect of regionalization on the costs of operating public safety net providers, which may have substantial value as public systems deal with ever-widening budget issues. Regarding budget neutrality, this is addressed in the October 23, 2006 Governor's letter to Secretary Leavitt which states:

"This transition funding can be provided by an amendment to California's existing 1115 hospital demonstration waiver to provide for the use of a portion of the existing \$360 million in waiver funding that is currently conditioned upon the expansion of Medi-Cal managed care. Amending this waiver to use this funding for transition costs would be budget neutral to the federal government and would allow transition funding similar to what was recently approved by CMS for the State of New York."

Attachment

102506
(CALE QUESTIONS AND ANSWERS)